

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 526/2008

this the 24th day of February 2009

CORAM

**HON'BLE GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER**

P.K.Varghese S/o late Kuruvillaa
Padayattil House,
Vencode PO, Kodancherry
Kozhikode District - 67 3580
working as GDSBPM, Koodathod PO
Kozhikode

..Applicant

By Advocate Mr. Johnson Manayani

VS

- 1 The Senior Supdt. Of Post Offices
Calicut Division, Calicut
- 2 The Chief Postmaster General
Kerala Circle, Trivandrum.
- 3 Postmaster General
Northern Region
Ndakkavu, Kozhikode.
- 4 The Sub Divisional Inspector (Postal)
Kunnamangalam Sub Division
Kunnamangalam.
- 5 The Union of India rep. by its Secretary
Ministry of Communications,
New Delhi.

By Advocate Mr. Sunil Jose, ACGSC

The Application having been heard on 23.1.2009 the Tribunal delivered the following

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ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant is working as Extra Departmental Branch Postmaster at Koodathod Post Office for the last 12 years. Applicant's father died in 1989. His mother a heart patient, is physically and mentally handicapped. Hence he submitted an application for transfer to Velancode where he has a permanent house (A-2). The 1st respondent sought further documents. Applicant submitted the documents asked for. Since no reply was forthcoming, he submitted an application before the 1st respondent under the right to Information Act (A-4). Pursuant to Annexure A-4, the 4th respondent issued A-5 order rejecting his request for transfer. As the respondents are taking steps to fill up the post at Velancode, the applicant filed this O.A. challenging A-5 order on the following grounds:

- (i) It is illegal, laconic and non-speaking order
- (ii) the applicant having a permanent house at Velancode
- (iii) Applicant's transfer will not affect any body

2 The respondents have filed reply statement opposing the O.A. They submitted that the O.A. is premature as the applicant has not exhausted statutory remedies that are available to him. There is a provision for appeal which he has not availed of. They have submitted that the applicant is working as Branch Postmaster, Koodathai since 2.8.1995. He submitted A-2 representation for transfer to the post of GDS BPM, Velancode. The post of GDS BPM, Velancode became vacant consequent to the promotion of the incumbent as Postman on 20.9.2007.

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The vacancy was notified to the Local Employment Office and notification was issued for making provisional appointment. One Shri Kiran Elias Padayattil, Velancode was selected and he joined the post on 26.8.2008. The competent authority after review of the case in detail had considered and rejected the request of the applicant after considering it in the light of "Limited Transfer Facility to Gramin Dak Sevaks" dated 17.7.2006. It is submitted that the applicant is residing at Velancode just 10 kms away from the place of work and his office working hours is 1000 to 1400 hours which means that he can look after his mother. The wife of the applicant is employed as GDS Mail Carrier at Velancode Post Office to which Office the applicant has sought a transfer. Her working hours are from 1010 to 1330 hours. She has split duty hours and is therefore free from 1100 hours to 1240 hours.

3 The applicant has filed a rejoinder.

4 We have heard Shri Shyam Raj counsel appearing for Shri Sunil Jose, ACGSC and have gone through the pleadings.

5 We notice that in terms of amendment to Rule 3 of GDS (conduct & Employment) Rules, 2001, a GDS is not eligible for transfer in any case from one posts/unit to another post/unit except in public interest." However, it has been decided to have limited transfer facility to GDS from a post/unit to another under the existing provision of amended rule 3 of GDS (Conduct & Emoployment) Rules, 2001. However, power in this regard will vest with the heads of Circles who will decide each and every individual case on merit keeping in view aforementioned criteria and

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standard of "public interest." The applicant's request for a transfer was examined under the provisions "Limited Transfer Facility to Gramin Dak Sevaks" to lookafter his mother who is a heart patient and physically handicapped. The relevant provision 2(V) which is one of the grounds of request for transfer, reads as follows:

"Where the GDS is lookingafter the welfare of a physically handicapped/mentally handicapped person/dependent and he/she requires to move to different places to give support to such physically/mentally challenged person/dependent."

6 The representation of the applicant was examined by the competent authority after review of the case in detail and rejected the case. The respondents have submitted that they are bound by law and guidelines in the matter of transfer of GDS. The applicant was informed of the decision vide Annexure A-5.

7 The case of the applicant is that Annexure A-5 is a laconic non-speaking order. Had the respondents have given a detailed order giving the reason for rejection of the request, the matter would have ended there itself.

8 In view of the the terms of Rule 3 of GDS (conduct & Employment) Rules, 2001, a GDS is not eligible for transfer in any case from one post/unit to another post/unit except in public interest and that the competent authority after review of the case in detail had considered and rejected the request of the applicant in the light of "Limited Transfer Facility to Gramin Dak Sevaks" dated 17.7.2006. In the facts and circumstances of the of the case, we do not find any illegality in the action

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of the respondents. The O.A. is dismissed. There shall be no order as to costs.

Dated 24th February, 2009

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K. NOORJEHAN
ADMINISTRATIVE MEMBER

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GEORGE PARACKEN
JUDICIAL MEMBER